

# STAFF REPORT

**DATE:** February 27, 2018

**TO:** Board of Adjustment

**FROM:** Zoning Administration  
Planning & Development  
Services Department

**ACTIVITY NO. T19SA00034**

**C10-19-05 BABYLON MARKET SITE IMPROVEMENTS / LEE FAMILY  
PROPERTY MANAGEMENT LLP / 3954 EAST SPEEDWAY  
BOULEVARD, C-2**

The applicant's property is an approximately .3 acre site developed with a retail use and is zoned C-2 "Commercial". The applicant has constructed a greater than twenty-five percent building expansion, which triggers full code compliance. Tucson *Unified Development Code (UDC)* sections applicable to this project include, but are not limited to, Section 4.7.21 and Table 4.8-6 which provide the criteria for commercial development in the C-2 zone, and Section 7.6 which provides the landscape and screening standards for the development. The applicant is requesting variances to eliminate the street landscape buffer and provide plant materials, all as shown on the submitted plans.

## **THE APPLICANTS' REQUEST TO THE BOARD**

The applicants are requesting the following variances:

1. Eliminate the street landscape buffer along Speedway Boulevard and provide plant materials; and
2. Eliminate the street landscape buffer along Longfellow Avenue and provide plant materials, all as shown on the submitted plans.

## **APPLICABLE TUCSON ZONING CODE SECTIONS**

Tucson *Unified Development Code (UDC)* sections applicable to this project include, in part, the following:

*Section 4.7.21 and Table 4.8-6* which provides the criteria for commercial development in the C-2 zone; and

*Section 7.6 Landscaping and Screening*, which provides the standards for the of landscaping and screening standards for the development.

## **GENERAL DEVELOPMENT INFORMATION**

### **Zoning and Land Use**

**SITE: ZONED C-2; (retail use)**

North: Zoned C-2; (across Speedway Boulevard: commercial uses)

South: Zoned R-1; (single family residential homes)  
East: Zoned C-2; (across Longfellow Avenue, commercial use)  
West: Zoned C-2; (commercial use)

## **RELATED PLAN REVIEWS**

### **Engineering**

The site is within the Alvernon Wash floodplain. The Engineering Section of Planning and Development Services Department has no objection to the variances requested, providing all site improvements conform to the City of Tucson Floodplain regulations (TCC Ch. 26.).

### **Design Review Board (DRB)**

Zoning regulations require requests for landscaping and/or screening variances to be reviewed by the DRB for recommendation to the Board of Adjustment. The variance requests were reviewed by the DRB (Case DRB-19-04) on February 1, 2019. The DRB recommended approval of the requested variances, with the following condition:

1. Along Speedway Boulevard, considering site conditions, provide the 10' wide landscape border where possible.

## **BOARD OF ADJUSTMENT FINDINGS**

The Board of Adjustment can hear and decide a variance request from the regulations listed in the Unified Development Code. The Board may grant a variance only if it finds the following:

1. That, because there are special circumstances applicable to the property, strict enforcement of the UDC will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.
2. That such special circumstances were not self-imposed or created by the owner or one in possession of the property.
3. That the variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.
4. That, because of special circumstances applicable to the property, including its size, shape, topography, location, and surroundings, the property cannot reasonably be developed in conformity with the provisions of the UDC.
5. That the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
6. That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase congestion, or substantially diminish or impair property values within the neighborhood.

7. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the UDC provisions which are in question.

### **ZONING ADMINISTRATION CONSIDERATIONS**

The applicant's property is an approximately .3 acre site developed with a retail use and is zoned C-2 "Commercial". The applicant has constructed a greater than twenty-five percent building expansion, which triggers full code compliance. The applicant is requesting variances to eliminate the street landscape buffer and provide plant materials, all as shown on the submitted plans.

### **Landscaping and Screening**

Per *UDC* Section 7.6, a minimum 10' wide street landscape border is required along Speedway Boulevard. Due to the existing site constraints, such as an existing curb cut, proximity from property line to parking lot curbing, the applicants propose to eliminate the 10' wide onsite street landscape buffer on the Speedway Boulevard street frontages. In lieu, the applicant seeks to provide plant materials as shown on submitted plans. Further, with permission of the Department of Transportation, planted areas would be provided within a portion of the right of way.

Per *UDC* Section 7.6, a 30" tall screen is required in front of vehicle use areas along major and local streets. The applicants propose to eliminate the 30" screen at the east street boundary (Longfellow Avenue) of the site. This paved area is used for access to an outside walk in freezer, trash service and parking.

### **Discussion**

The store was built in 1985, per Pima County Assessor records. The present building and site walls are from the original construction era.

Under the present retail market use, operations have expanded to include an area for take away food preparations. In turn, the owner elected to install outdoor, walk in freezers, including one at the south property line (reduced setback issued per Design Development Option case DDO 18-98 / T18SA00449). The freezers are considered expansions in gross floor area to the site. At a greater than 25% expansion, the building expansion requires full code compliance, such as increased parking and addressing insufficient landscaping and screening. Relief from providing four additional parking spaces was granted via an Individual Parking Plan (case T18SA00422), which allows the seven existing parking spaces to suffice for the establishment.

As the site buildings, parking and access points are established on both Speedway Boulevard and Longfellow Avenue, and paving on the southeast side of the site allows for access to structures and trash service, the existing conditions of the site limit compliance with *UDC* regulations regarding landscaping and screening.

### **Conclusion**

Given there are special circumstances, such as the position of the existing buildings, existing access points and parking layout that impact the development; and given these circumstances, the property cannot be reasonably developed in

conformance with *UDC* provisions; and that the proposal is the minimum requested to afford relief, given the applicants are bringing the site closer into conformance with providing planted areas, staff can support the requested variances, with conditions.

**NEIGHBORHOOD CONTACT (BY APPLICANTS)**

See the attached neighborhood notification dated December 3, 2018, the meeting sign-in sheet dated January 3, 2019, and meeting summary dated January 3, 2019.

**PLANNING & DEVELOPMENT SERVICES RECOMMENDATION**

PDSD staff recommends approval of the applicants' requested variances, subject to the following conditions:

1. Along Speedway Boulevard, considering site conditions, provide the 10' wide landscape border where possible. Subject to approval by Tucson Department of Transportation (TDOT), any landscape material installed in right of way shall be maintained by the property owner at no cost to the City.

It is the opinion of staff that granting of the variances will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located, will not be detrimental to public welfare or injurious to other property or improvements, and will not substantially diminish or impair property values within the neighborhood.

Heather Thrall, Lead Planner  
for  
Russlyn Wells, Acting Zoning Administrator

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